

1 that an impression will not be left that I think may be a
2 false one. Or I can wait until redirect, but it would just
3 be two or three questions.

4 JUDGE SIPPEL: Well, if Mr. Holt doesn't object.

5 MR. HOLT: I would prefer to wait for redirect.

6 JUDGE SIPPEL: All right.

7 MR. HOLT: I certainly don't want to leave any
8 false impressions.

9 JUDGE SIPPEL: All right.

10 MR. HOLT: But I'm sure Mr. Begleiter will clear
11 up any that he believes may be --

12 JUDGE SIPPEL: Well, I hope you're right. Just
13 don't lose your thought. All right.

14 BY MR. HOLT:

15 Q Now, also if you refer back to the top paragraph
16 of this STA, you had in the last sentence a -- a reference
17 to any delay in the institution of temporary operation. Do
18 you see where I'm referring?

19 A Yes.

20 Q What did you mean by reference to delay in the
21 institution of temporary operation?

22 A Simply what it says. Any delay. I mean, the
23 purpose of this STA is to -- is -- is to request that
24 special temporary operating authority be granted as soon as
25 possible.

1 Q Let's focus on the word, "institution." Did you
2 mean by that word to suggest that Liberty had not yet turned
3 on 2727 Palisades?

4 A I don't recall. I don't think I was thinking of
5 that at the time. This is standard language.

6 Q Well, if you referred to the -- Appendix A of the
7 HDO which is Exhibit 30 --

8 JUDGE SIPPEL: Let me ask him a follow-up on that.
9 When you say this is standard language, I mean, is this
10 language that you have in your -- that's in your PC or in
11 your computer and you can just hit a button and that's going
12 to come up and you sort of fill in the blanks?

13 THE WITNESS: Yes, with some minor modification,
14 yes.

15 JUDGE SIPPEL: Is this for all your STA work or
16 just for the sake of the client?

17 THE WITNESS: For virtually all the STA work.

18 BY MR. HOLT:

19 Q So you didn't -- you didn't review this document
20 to determine whether or not -- or this -- let me narrow it.
21 You didn't review this clause to determine whether or not it
22 had any applicability to your client before you submitted it
23 to him for signature?

24 A Yes, I reviewed it.

25 Q And what was your understanding of the term,

1 "institution of temporary operation", at the time you
2 reviewed it?

3 A Well, I think it -- it's pretty self-explanatory.
4 I don't understand your question.

5 Q You're trying -- you were trying to convey to the
6 Commission that this path had not yet been activated, isn't
7 that right?

8 A I wouldn't say that. I mean, I -- I didn't know
9 at the time I don't believe.

10 Q Well, if you refer to Exhibit 30 of the HDO,
11 you'll see if you look down at the entry for 2727 Palisades,
12 that Liberty began service on April 24, 1995. That's an
13 undisputed fact. And if you look at Cablevision/Time Warner
14 Exhibit 28 which is the surreply that was filed by your
15 offices in May, specifically May 17th, 1995 -- do you have
16 that before you?

17 A Yes.

18 Q And you look at -- you look at the second page of
19 that -- do you have that before you?

20 A Yes.

21 Q In the first full paragraph at the very end, you
22 see the entry -- an entry for 2727 Palisades Avenue, right?

23 A Yes. Yes.

24 Q Which is listed among other paths for which
25 Liberty was -- had indicated that it was operating without

1 authorization, right?

2 A Yes.

3 Q There's no -- I notice that there's no file number
4 associated with the 2727 Palisades entry. Do you know
5 whether at the time that this petition was filed -- the
6 surreply was filed with the Commission on May 17th, 1995,
7 whether this had been -- 2727 Palisades had been assigned a
8 file number -- FCC file number?

9 A I don't know.

10 Q For it to come out on public notice, would it have
11 had to have been assigned an FCC file number?

12 A Yes. However, it's possible that since 2727
13 Palisades was an amendment -- well, yes, even if it was an
14 amendment, it would have had a file number, yes.

15 Q Okay. Now, if you refer to the back of this
16 exhibit to the very last page -- and when I say this
17 exhibit, I mean Cablevision/Time Warner Exhibit -- Time
18 Warner/Cablevision Exhibit 18 -- you'll see a date appears
19 there, 5/17/1995 --

20 A Yes.

21 Q -- below Mr. Nourain's signature. And then if you
22 look at the signature page for the STA that was filed by
23 your offices on May 19, 1995 which has been marked for
24 identification as Time Warner/Cablevision Exhibit 38, page 3
25 of that exhibit for identification, you see Mr. Nourain's

1 signature line bears a date of May 18, 1995.

2 A Yes.

3 Q Now, I want you to take a moment -- you reviewed
4 the STA earlier -- but I want you to take a moment to make
5 sure I'm not missing anything. But can you tell me whether
6 this STA indicates anywhere within it that Liberty had
7 commenced service to 2727 Palisades at the time?

8 A No, it does not.

9 Q Why?

10 A That's a good question. I don't know.

11 Q Now, on May 24th, 1995, you had occasion to amend
12 the STA to add an additional path, correct?

13 A Yes.

14 Q And do you recall when that amendment was -- or
15 who that amendment was signed by?

16 A No, I don't. I don't have it in front of me.

17 Q Would it refresh your recollection --

18 A Yes, it would.

19 Q -- to -- okay.

20 MR. BECKNER: Your Honor, before I proceed with
21 this next line of questioning, I'd like to ask that Time
22 Warner/Cablevision Exhibit 38 for identification be admitted
23 into evidence.

24 JUDGE SIPPEL: Any objection?

25 MR. BEGLEITER: Well, the only objection, Your

1 Honor, is that we've been restricting ourselves to the --
2 basically to the exhibits that have been -- were prepared
3 prior to the hearing; in other words, the newly discovered
4 exhibits. And I just don't want to -- I have no particular
5 objections with this exhibit, Your Honor. But I just don't
6 want to open the door to -- to either to what I'm going to
7 expect now that I -- that I -- that could have been --
8 obviously could have been offered for -- for -- into
9 evidence last Friday. This is not new stuff.

10 JUDGE SIPPEL: Well, I know it's not, but I -- and
11 you've got a good point there. I was -- and I was -- I was
12 going to raise that with respect to the -- to yesterday the
13 time that we spent on the March 21 submission which it
14 turned out was -- it was a very important piece of
15 information to have in the record to follow the flow of
16 events.

17 Now, I'm not -- I'm not -- I'm not suggesting
18 where it comes out in terms of the ultimate issue. But in
19 terms of understanding what's going on, that was a very
20 significant piece of information in my -- in my estimation.
21 And I don't understand why that wasn't presented -- I don't
22 believe it was presented with the motion for summary
23 decision, was it?

24 MR. BEGLEITER: No. I don't think the parties --
25 I don't think any of the parties believe that it was of

1 great significance. I can speak for ourselves. We didn't
2 believe that the fact that there had been an amendment --
3 that there had been a modification requested on the 21st of
4 March on this emission designator problem really is a great
5 moment. Actually, Your Honor, I still don't believe it is.
6 But --

7 JUDGE SIPPEL: I'm not asking you to concede that
8 it is. All I'm simply saying is it certainly gives me a
9 much better understanding of what's -- what has gone on here
10 between January of '95 up through May. Without that, you
11 know, I -- well, in any event --

12 MR. HOLT: Your Honor --

13 JUDGE SIPPEL: And I believe that this is -- in
14 addition, this also a helpful amendment for that purpose.

15 MR. BEGLEITER: Well, then I have no objection.

16 JUDGE SIPPEL: Now, you're correct. You're
17 correct. I didn't intend this hearing to go in this
18 direction. But it's not going to stay this way very long.

19 MR. HOLT: Your Honor --

20 JUDGE SIPPEL: Yes, sir.

21 MR. HOLT: -- I wanted to -- to --

22 JUDGE SIPPEL: I'm going to grant your motion. So
23 if you want to argue the motion, you can move to something
24 else.

25 MR. HOLT: Thank you, Your Honor.

1 JUDGE SIPPEL: That's -- Exhibit 38 -- let me get
2 this to the Reporter. Exhibit 38 for identification is now
3 received in evidence.

4 (The exhibit referred to,
5 previously marked for
6 identification as TW/CV
7 Exhibit Number 38, was
8 received in evidence.)

9 MR. HOLT: Thank you, Your Honor.

10 MR. BECKNER: Your Honor, before Mr. Holt resumes,
11 I want to respond to a statement on Mr. Begleiter. In the
12 event -- and I'm not saying it's going to happen -- but in
13 the event that we end up asking you to admit more papers
14 into evidence other than the ones that were produced to us
15 at the beginning of the week, and the explanation for why we
16 -- for instance, the March 21 document -- why we didn't do
17 it is very simple.

18 And that is is you recall from Mr. Milstein's
19 testimony, and you'll hear the same thing when Mr. Price is
20 up here, is that every one of these Liberty witnesses
21 testified in deposition that the first time that they knew
22 about this problem is when Time Warner filed the reply which
23 was filed on May 5th. And this document that we received,
24 the April 28 memorandum that we received on the fax just
25 before this hearing that Mr. Lehmkuhl wrote was the first

1 indication that we had that anybody at Liberty knew anything
2 about this situation before the Time Warner surreply.

3 JUDGE SIPPEL: Well, Mr. Beckner, that is not
4 advancing the ball here today.

5 MR. BECKNER: Okay.

6 JUDGE SIPPEL: And really, I mean, that kind of
7 argument should be made without the Witness being on the
8 witness stand. It's just that I'm not going to slow this
9 down -- this process down any more than it already has.

10 MR. BECKNER: All right.

11 JUDGE SIPPEL: Go ahead, Mr. Holt.

12 MR. HOLT: Your Honor, I guess at this juncture, I
13 want to note that there -- there are two additional
14 documents that I want to question the Witness about. Both
15 of them are public record documents. And --

16 JUDGE SIPPEL: What are they? I mean, very
17 briefly, what are they?

18 MR. HOLT: There's a May 24, 1995 amendment that
19 the Witness just referred to; it is an amendment to the STA
20 request that was --

21 JUDGE SIPPEL: It's an amendment to Number --
22 Exhibit 38?

23 MR. HOLT: It was -- it was an amendment that was
24 filed that relates to the same path, yes, that was -- for
25 which STA was requested in Exhibit 38.

1 JUDGE SIPPEL: 2727 Riverside.

2 MR. HOLT: 2727 Palisades.

3 JUDGE SIPPEL: Palisades, I'm sorry.

4 MR. HOLT: And then there's another request for
5 STA that was made on July 12th, 1995.

6 JUDGE SIPPEL: What property does that relate to?

7 MR. HOLT: It also relates to 2727 Palisades.

8 JUDGE SIPPEL: All right. Well, let's -- let's
9 get those identified. Let's get them -- and get the Witness
10 to -- focused on them so that we can move this along. Off
11 the record.

12 (Off the record.)

13 JUDGE SIPPEL: Back on the record. I'm going to -
14 - Mr. Beckner has just provided to the Reporter two
15 documents which are really Cablevision documents. But these
16 are -- the first is going to be marked for identification as
17 TW/CV Number 39. And this is a shorthand description. But
18 it's an amendment -- an amendment to an STA that was
19 requested by Liberty on May 24, 1995 or thereabouts.

20 (The exhibits referred to were
21 marked for identification as
22 TW/CV Exhibit Nos. 39 & 40.)

23 And the second document is TW/CV Number 40. And
24 that's a request for STA -- for an STA. And that's dated
25 July 12, 1995. And as I understand it, both of these

1 documents relate to the 2727 Palisades path. Is that --

2 MR. BECKNER: Your Honor, I'm handing them around
3 now to --

4 JUDGE SIPPEL: Is that correct? Yes, distribute
5 them to everybody please.

6 MR. BECKNER: Okay. Fine.

7 JUDGE SIPPEL: And can you start your questioning
8 now, Mr. Holt, while we're doing this?

9 MR. BEGLEITER: Have they been offered, Your
10 Honor? I mean --

11 JUDGE SIPPEL: They've just been identified as 39
12 and 40 for the Witness.

13 BY MR. HOLT:

14 Q Mr. Lehmkuhl, if you could please turn to what's
15 now been marked as Time Warner/Cablevision Exhibit 39 for
16 identification which is the May 24th amendment. Do you have
17 that before you?

18 A Yes.

19 Q Okay. Could you briefly explain what this
20 amendment is?

21 A I believe it is amending our earlier request for
22 STA to include an additional path.

23 Q And that earlier request for STA is the May 19th,
24 1995 request that has now been admitted into evidence as
25 Time Warner/Cablevision Exhibit 38?

1 A I'm sorry. I didn't hear you. Could you speak
2 up, please?

3 Q Yes, sorry. The earlier request for STA that you
4 just referred to is the May 19th, 1995 request for STA for
5 2727 Palisades that has been now admitted into evidence as
6 Time Warner/Cablevision Exhibit 38, right?

7 A Yes, I believe so.

8 Q As part of this -- the amendment, Exhibit 39,
9 you -- Liberty resubmitted to the Commission a copy of that
10 May 19th, 1995 request for 2727 Palisades, right?

11 A Yes.

12 Q Does it appear to you if you could take a look
13 at -- I believe those copies of the May 19th request are
14 appended to this amendment beginning at page 33 of the
15 exhibit. If you could take a couple of minutes to look at
16 those, my question is would you agree with me that there
17 doesn't appear to have been any modification to this May
18 19th amendment. I mean, it was submitted the way it was
19 filed to the Commission.

20 A Yes.

21 Q And if you look back at the first page of the
22 Exhibit 39 for identification, you make reference to the May
23 19th, 1995 amendment. And essentially, you're seeking
24 special temporary authority for the same reasons stated in
25 the May 19th, 1995 amendment, correct?

1 A Yes.

2 Q And the amendment is -- appears to be signed by
3 Behrooz Nourain. Is that --

4 A Yes, that's correct.

5 Q -- correct to you? Do you recognize Mr. Nourain's
6 signature?

7 A Yes.

8 Q And, again, nothing in this amendment discloses to
9 the Commission the fact that 2727 Palisades, which you had
10 filed in the previous amendment, was already in operation.

11 A That's correct.

12 Q Now, if you would turn to what's been marked for
13 identification as Time Warner/Cablevision Exhibit 40. It's
14 a July 12th request for special temporary authority. Do you
15 have that before you?

16 A Yes.

17 Q Is that your signature that appears on the -- page
18 1, bottom right-hand corner of --

19 A Yes.

20 Q -- this document? Now, if you would turn to page
21 2 of this Exhibit 40 for identification, the first full
22 paragraph at the bottom, it again refers to the need for an
23 STA because any delay in the institution of temporary
24 operations would serious prejudice the public interest,
25 correct?

1 A Yes.

2 Q The same language that we used in the May 19th,
3 1995 STA request?

4 A Yes.

5 Q And if you proceed down, under paragraph 2, "Need
6 For Special Action", second paragraph, there is a reference
7 to applications for new paths that were filed between March
8 24, 1995 through June 22nd, 1995, correct?

9 A Yes.

10 Q And March 24, 1995 is the date that the 2727
11 Palisades application was filed, right?

12 A I'm not sure, but I think so. No --

13 Q That's the date referenced in the HDO if you can
14 refer to it.

15 A Okay. Well, I'm still not certain of that unless
16 I see the actual application.

17 Q Okay. I -- we'll provide that to you if it would
18 refresh your recollection.

19 JUDGE SIPPEL: Well, I think that that's fair
20 enough -- it's good enough for this record that this is the
21 date that's reflected in Appendix A to the hearing
22 designation order.

23 MR. HOLT: Thank you, Your Honor.

24 THE WITNESS: I mean, I'm not certain when the
25 application for 2727 Palisades, the actual path was applied

1 for. But the actual application for the Century was -- was
2 probably filed on March 24, the -- the underlying
3 application. I'm not sure.

4 MR. HOLT: Okay.

5 THE WITNESS: I've got a lot of numbers and dates
6 here. So I'm getting a little confused.

7 BY MR. HOLT:

8 Q I don't want to confuse you. I think that the
9 evidence reflects that the application for the 2727
10 Palisades path was filed on March 24, 1995. Which is an
11 amendment to -- it was an amendment to a pending application
12 to add the 2727 Palisades path. Is that -- does that sound
13 right to you?

14 A I'm not certain. I would need to know exactly
15 when I filed the -- the application for 2727 Palisades.

16 Q What I'm saying is March 24, 1995. I think the
17 Judge is --

18 JUDGE SIPPEL: You can assume in your answer that
19 that date is accurate. It's certainly substantially
20 accurate for purposes of this examination.

21 MR. BEGLEITER: We agree, Your Honor.

22 THE WITNESS: Yes, okay. I'm looking at the
23 Attachment 1 here and I've verified that, yes.

24 BY MR. HOLT:

25 Q So, now, if you look to the third paragraph under

1 Section 2, it refers to a location 2500 Johnson. Do you see
2 that?

3 A Yes.

4 Q Are you familiar with that location?

5 A In the context of these applications, yes.

6 Q And it's a path that -- or it's a -- it identifies
7 a receive site within Cablevision service contracts, right?

8 A Yes.

9 Q And it was one of a series of receive sites that -
10 - for which Liberty was seeking authorization during this
11 time period in conjunction with the 2727 Palisades
12 application, correct?

13 A In conjunction with the 2600 Netherlands Avenue,
14 the Century application.

15 Q They're all being added as amendments to each
16 other I guess in sequence. 2727 Palisades was first and
17 then there were subsequent --

18 A You're adding different various paths to the
19 Century application.

20 JUDGE SIPPEL: These are what, paths that would
21 come off the same transmitter?

22 MR. HOLT: Right.

23 THE WITNESS: Yes. The transmitter is the Century
24 site.

25 //

1 BY MR. HOLT:

2 Q And so -- do you know as you sit here today
3 whether 2500 Johnson was activated without FCC authority?

4 A I don't recall. I don't know.

5 Q If you turn to page 6 of the exhibit, I think that
6 provides a -- what appears to be a history of the
7 application. Is that right?

8 A Yes.

9 Q And does this identify the various receive
10 locations and various modifications, et cetera, that were
11 filed that you were discussing a moment ago?

12 A Yes.

13 Q We see that 2727 Palisades was the first path that
14 was added. And then there were subsequent paths.

15 A Yes.

16 Q Is that right? Now, if you turn back to page 5 of
17 this what's been marked as Time Warner/Cablevision Exhibit
18 40 for identification, you see that there's a signature that
19 appears above the typewritten words, "Peter O. Price."

20 A Yes.

21 Q Do you recognize that signature of that of Mr.
22 Price?

23 A Yes.

24 Q And it appears to have been dated 7/17/95, is that
25 correct?

1 A Yes.

2 Q Do you know whether Mr. Price added that date
3 himself or did you do that?

4 A It appears as though he added it himself.

5 Q Now, this amendment which was filed July 12th,
6 1995 occurred during a period of time in which Liberty knew
7 that it was under scrutiny by the FCC for -- in regard to
8 its operation of unlicensed paths, correct?

9 MR. BEGLEITER: Objection, Your Honor. Did he
10 know it was under scrutiny and --

11 JUDGE SIPPEL: Yes, I want to sustain that
12 objection.

13 MR. HOLT: The issue --

14 JUDGE SIPPEL: Let's -- yes. Start this -- yes,
15 Mr. Begleiter?

16 MR. BEGLEITER: This has gone on for a long time,
17 Your Honor. Frankly, I would have stipulated to most of
18 these facts 40 minutes ago. And I think it also is that --
19 I don't want to say anything substantive in front of the
20 Witness. But I think we could really end this.

21 JUDGE SIPPEL: Yes, yes. We've got an objection
22 to the -- we really have an objection to the relevance of
23 this. And I'm -- I'm getting a little bit impatient myself.

24 MR. HOLT: I'm sorry.

25 JUDGE SIPPEL: If you want to ask the Witness, you

1 know, something about disclosure, what was and was not
2 disclosed in the application, you know, you can do that with
3 one or two questions. But everything that you're asking the
4 Witness is in the document in some way, shape or form. So
5 let's go. Let's move it.

6 MR. HOLT: Okay.

7 JUDGE SIPPEL: I'll sustain the objection.

8 MR. HOLT: Your Honor, anticipated my question.

9 BY MR. HOLT:

10 Q Mr. Lehmkuhl, do you recall sending a copy of this
11 STA request to Mr. Price for review prior to his signature?

12 A Yes.

13 Q And is it your understanding that Mr. Price did
14 review the document prior to the time that it was filed?

15 A Yes.

16 Q Can you take a moment to review the document and
17 tell me whether it discloses anywhere that service to 2727
18 Palisades had been activated prior to Commission
19 authorization?

20 A It doesn't appear so.

21 JUDGE SIPPEL: Should it have been?

22 THE WITNESS: Yes, probably it should have been.
23 I mean, I don't recall whether -- I don't recall whether I
24 actually knew that this path had been turned on. I mean,
25 yes, I understand that it was in the surreply. But I'm

1 dealing with a lot of paths, a lot of applications. And it
2 very well could have been an oversight. I think, in
3 addition, it was already disclosed in the surreply that this
4 path was operating.

5 JUDGE SIPPEL: But you didn't -- from this
6 explanation you're giving me though, you didn't -- you
7 didn't make a concerted decision not to include it here
8 because you felt that it had already been disclosed in the
9 surreply --

10 THE WITNESS: That's correct.

11 JUDGE SIPPEL: Is that correct?

12 THE WITNESS: Yes.

13 JUDGE SIPPEL: It was something that should have
14 been disclosed and it wasn't disclosed.

15 THE WITNESS: Yes.

16 JUDGE SIPPEL: All right.

17 BY MR. HOLT:

18 Q And, Mr. Lehmkuhl, can you explain why this was
19 signed by Mr. Price and not Mr. Nourain, this STA when I was
20 this?

21 A Because I sent it to Mr. Price for his signature.

22 Q Do you recall why you sent it to Mr. Price and not
23 Mr. Nourain?

24 A We had made -- we had made a decision that Mr.
25 Price would now review the applications and sign them.

1 JUDGE SIPPEL: All right. The Witness explained
2 that yesterday. All right. That's it for this line of
3 questioning. I take it you have a motion to receive them
4 into evidence?

5 MR. HOLT: Yes, Your Honor.

6 JUDGE SIPPEL: I take it, Mr. Begleiter, you have
7 an objection?

8 MR. BEGLEITER: Yes, Your Honor.

9 JUDGE SIPPEL: It's overruled. They're received
10 in evidence at this time as 39 and 40.

11 (The exhibits referred to,
12 previously marked for
13 identification as TW/CV
14 Exhibits Numbers 39 and 40,
15 were received in evidence.)

16 Do you have another subject to turn to?

17 MR. HOLT: Yes, Your Honor. I'm proceeding.

18 MR. HOLT:

19 Q Mr. Lehmkuhl, if you could refer back to Time
20 Warner/Cablevision Exhibit 38 which is the May 19th, 1995
21 STA request. I see at the bottom left-hand corner that
22 there's a CC to Mr. Michael Hayden. Who is Mr. Michael
23 Hayden?

24 A At that time, he was chief of the Microwave Branch
25 in Gettysburg.

1 Q Okay. Can you explain to me why it was that you
2 were CCing Mr. Hayden with this STA request?

3 A It's usually general practice that if you're in
4 need of an STA, that you CC the Commission staff, that you
5 provide a courtesy copy.

6 JUDGE SIPPEL: Let's go off the record.

7 (A discussion was held off the record.)

8 JUDGE SIPPEL: All right. Back on the record.

9 BY MR. HOLT:

10 Q Now, after the May 19th, 1995 STA request for 2727
11 Palisades was filed, there came a time, did there not, when
12 that request was granted by the FCC?

13 A I believe so, yes.

14 Q Do you recall approximately when?

15 A No, I don't.

16 MR. HOLT: I could refer the -- Your Honor, the
17 Witness to a document -- an extension request that was filed
18 by his office on December 8th, 1995 to refresh his
19 recollection. I don't need to mark it for identification.
20 But I could -- and if counsel will stipulate that it was
21 September 7th, 1995, that would --

22 MR. BEGLEITER: Your Honor, I want to stipulate to
23 a whole lot. I'll stipulate to that, too.

24 JUDGE SIPPEL: Yes.

25 MR. BEGLEITER: It's irrelevant, Your Honor. It

1 really is.

2 JUDGE SIPPEL: You mean you're going to ask him
3 questions about September and December now of '95?

4 MR. HOLT: No, I'm going --

5 MR. BEGLEITER: We need to have a proffer session,
6 Your Honor. It's been quite a lot.

7 MR. HOLT: I -- I've got a couple of question on
8 this line. And I'll -- I think they'll be readily apparent.
9 I'm just establishing a date that the STA was granted.

10 JUDGE SIPPEL: That the STA was granted?

11 MR. HOLT: Right.

12 JUDGE SIPPEL: Isn't that -- and it's not --
13 that's not in Appendix A?

14 MR. HOLT: No, it's not.

15 MR. BEGLEITER: The STAs were granted in early
16 September of 1995. They were granted in a lump.

17 JUDGE SIPPEL: In a lump? All right. And this
18 all relates to these three documents, 38, 39 and 40?

19 MR. HOLT: Yes, Your Honor.

20 JUDGE SIPPEL: That's it. It's stipulated. It's
21 in the record.

22 MR. HOLT: Thank you.

23 JUDGE SIPPEL: Let's move on.

24 BY MR. HOLT:

25 Q And, now, Mr. Lehmkuhl, do you know whether during

1 the period May 19th, 1995, the date that the STA for 2727
2 Palisades was filed, and September 7th, 1995, the date that
3 the STA was granted, whether or not Liberty ceased operating
4 2727 Palisades at any time?

5 A I don't know.

6 Q That issue is not something that was ever
7 discussed with you by anyone?

8 A Not that I recall.

9 Q And, Mr. Lehmkuhl, referring back to your
10 testimony of yesterday, I believe you stated that it was
11 your practice to file applications for authority to operate
12 new OFS paths after receiving a supplemental showing from
13 COMSEARCH.

14 A Yes.

15 Q Is that correct?

16 A Yes.

17 Q And that was the case for new applications as well
18 as amendments and modifications to applications.

19 A Yes.

20 Q And this was your practice during the period June
21 '94 through July '95?

22 A Yes.

23 Q As you sit here today, are you aware of any
24 instance in which you or your law firm, Pepper & Corazzini,
25 did not file an application for a new path, OFS path, after

1 receiving a supplemental showing from COMSEARCH?

2 A No.

3 Q During the period June 1994 through July 1995, did
4 anyone ever suggest to you that you or your law firm, Pepper
5 & Corazzini, had failed to file an application for an OFS
6 path at the time that you should have --

7 A I don't think it was ever suggested, no.

8 Q I wanted to complete my question -- at the time
9 that Liberty had expected you to file that application?

10 A Not that I recall specifically, no.

11 Q So no one from Liberty ever said to you -- never
12 asked you or to your knowledge anyone else at your firm why
13 an application had not been filed for a path that they had
14 thought an application had been filed for?

15 A I believe there was one instance.

16 Q Do you recall when that was?

17 A Not specifically. Sometime in the summer of '95.

18 Q The summer of '95.

19 A Yes.

20 Q Did it relate to a -- an application that was
21 filed around the summer of '95?

22 A Yes.

23 Q Or should have been filed --

24 A I think so.

25 Q Did the issue relate to -- let me rephrase that.